

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE CLAYTON HEE, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**Twenty-sixth State Legislature**  
**Regular Session of 2011**  
**State of Hawai'i**

March 3, 2011

**RE: S.B. 52; RELATING TO REGISTRATION OF SEX OFFENDERS.**

Chair Hee, Vice Chair Shimabukuro, and members of the Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu is in support of Senate Bill 52.

The purpose of this bill is to retroactively and prospectively require persons convicted of violation of privacy in the first degree pursuant to section 711-1110.9, Hawaii Revised Statutes (HRS), to register as sex offenders for ten years. Under section 711-1110.9, HRS, a person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law, the person intentionally or knowingly installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place. Violation of privacy in the first degree is a class C felony.

Currently, persons who are required to register as a sex offender have:

- Subjected another person to an act of sexual penetration or sexual contact by compulsion or strong compulsion;
- Engaged in sexual penetration or sexual contact with another person who is less than 14 years old.
- Engaged in sexual penetration or sexual contact with another person who is at least 14 years old but less than 16 years old; provided that the person is not less than 5 years older than the minor; and the person is not legally married to the minor;
- Subjected another person who is mentally defective, mentally incapacitated, or physically helpless to sexual penetration or sexual contact;

- Advanced or profited from prostitution of a person less than 18 years old;
- Kidnapped another person with the intent to subject the person to a sexual offense;
- Intentionally masturbated or intentionally exposed genitals in a lewd or lascivious manner live over the computer to another person under 18 years old;
- Solicited a minor who is less than 14 years old to engage in sexual conduct;
- Used a minor in a sexual performance;
- Produced, distributed, or possessed child pornography; and
- Electronically enticed a minor under 18 years old with the intent to promote or facilitate the commission of a felony, and met the minor at a meeting place at an agreed upon time.

Under section 711-1110.9, HRS, persons who observe another person in a stage of undress or sexual activity should falls into the category of sexual offenses and be required to register as a sex offender because such acts cause emotional damage on the victims. An act need not be physical in order to subject victims to emotional pain and challenges.

Also, we recommend a technical amendment. Section 712-1203(1)(b) should be deleted from this bill since it no longer exists. The language of “Advances or profits from prostitution of a person less than eighteen years old” was moved from Promoting Prostitution in the Second Degree to Promoting Prostitution in the First Degree in 2008.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports Senate Bill 52. Thank you.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

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ON THE FOLLOWING MEASURE:

S.B. NO. 52, RELATING TO REGISTRATION OF SEX OFFENDERS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, March 3, 2011 TIME: 3:00 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or  
Albert Cook, Deputy Attorney General

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Chair Hee and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this bill is to require that persons convicted of the offense of violation of privacy in the first degree (section 711-1110.9, Hawaii Revised Statutes), register as sex offenders.

The offense of violation of privacy in the first degree is being added to the definition of "sexual offense" under section 846E-1, Hawaii Revised Statutes. The offense is also being added to section 846E-10(d), Hawaii Revised Statutes, to make it a covered tier 1 offense, which would subject the offender to sex offender registration requirements for at least ten years.

As defined, the offense of violation of privacy in the first degree involves the installation or use of "any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place." The statute clearly prohibits sexual misconduct, and the legislative history of section 711-1110.9 confirms a specific legislative intent to address misconduct of a sexual nature. Conference Committee Report No. 87, on House Bill No. 955, H.D. 1, S.D. 1,

C.D. 1, from the Regular Session of 1999, stated the following about the legislation that created the offense:

The purpose of this bill is to make it a felony to take sexual photographs or videotapes of a person without that person's consent and when the person expects privacy . . . Your Committee finds that people's expectation of privacy in sexual matters should be protected. The creation of criminal sanctions against invasions into one's sexual privacy will deter these types of activities.

We respectfully request the passage of this measure.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 03, 2011 7:28 AM  
**To:** JDLTestimony  
**Cc:** kunitake@earthlink.net  
**Subject:** Testimony for SB52 on 3/4/2011 12:00:00 PM

LATE TESTIMONY

Testimony for JDL 3/4/2011 12:00:00 PM SB52

Conference room: 016  
Testifier position: support  
Testifier will be present: No  
Submitted by: Sharlene Kunitake  
Organization: Individual  
Address:  
Phone:  
E-mail: [kunitake@earthlink.net](mailto:kunitake@earthlink.net)  
Submitted on: 3/3/2011

Comments:

141841 Usui Way, Suite 200  
Honolulu, Hawaii 96817  
Phone: 808-681-1500  
Fax: 808-681-5780  
Email: info@late testimony.org  
www.late testimony.org



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808-681-1500  
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**TO:** Senator Clayton Hee, Chair, Senator Maile Shimabukuto, Vice Chair  
And Members of the Committee on Judiciary and Labor

**FROM:** Tammie Visperas, MPH-MCH  
Child and Family Service - Ohana Sex Abuse Treatment Program Administrator

**RE:** SB 52 Relating to Registration of Sex Offenders

As the Program Administrator of the Oahu Sex Abuse treatment program I stand in support of the bill requiring persons convicted of violations of privacy in the first degree to register as sex offenders for ten years.

I thank the committee for the opportunity to provide our support. If you have need for further information please call me at 681-1541.